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OFFICE OF PETITIONS

In re Application of :
Fortin et al. : DECISION ON PETITION
Application Number: 10/760075 :
Filing Date: 01/18/2004 :
Attorney Docket Number: :
09955.0047-01000 :

This is a decision on the renewed petition filed on January 22, 2008, under 37 CFR 1.137(b)¹ to revive the above-identified application.

The petition is **GRANTED**.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

This application became abandoned on October 18, 2006, for failure to timely submit a reply to the non-final Office action mailed on July 17, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment mailed on February 21, 2007. On October 23, 2007, a petition to revive the application was filed. On December 21, 2007, the petition was dismissed. On January 22, 2008,² the subject renewed petition was filed.

Receipt of the amendment filed with the present renewed petition is acknowledged.

Receipt of the power of attorney filed with the present petition is acknowledged. All correspondence will be mailed to the address indicated therein.

The application is being referred to Technology Center Art Unit 3733 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

² As January 21, 2008, fell on a federal holiday, the petition filed on January 22, 2008, was timely filed within two (2) months of the decision mailed on December 21, 2007.